

- (3) further delay in providing Eryk and its agents access to inspect all of the books and records kept by Mid-America relating to the management of the K&S properties;
- (4) further delaying the deposition of Alan Krause;
- (5) withholding supervision fees owed to the manager of Eryk for supervising Mid-America's activities;
- (6) failing to comply with Section 10 of the Amended and Restated Management Agreements which imposes duties upon Mid-America regarding the transfer of funds, plans, books and records, leases, supply agreements, keys, insurance policies, and other items or assets relating to the operation or management of the K&S properties after termination of the Amended and Restated Management Agreements; and
- (7) destroying any and all documents relating to the management of the K&S properties.

On April 27, 2007, the Court held an in-chambers status conference with parties and accountants present. The Court heard oral arguments from both parties on the Motion. The parties' accountants discussed the outstanding documents Plaintiff needs for discovery. The following issues have been resolved:

- 1) Plaintiff and Defendant have agreed to a date for the deposition of Alan Krause;
- 2) The Court Orders the Defendant to stop withholding the supervision fees owed to manager of Eryk;
- 3) Plaintiff withdraws its Motion for Temporary Restraining Order as it pertains to the timeliness of the monthly partnership distributions owed by Mid-America to

Plaintiff.

The Court Orders Defendant to refrain from destroying any and all records relating to the management of the K & S properties in question. The parties shall continue to work together, in good faith, to resolve all remaining discovery issues. The Court further finds the remaining unresolved issues constitute textbook breach of contract actions that do not present issues of irreparable harm warranting the extraordinary relief of a Temporary Restraining Order. Therefore, in accordance with this Order, the Court grants Plaintiff's Renewed Motion for Temporary Restraining Order, in part.

The Court sets a trial date of June 20, 2007 at 9:00 AM.

IT IS SO ORDERED.

5/2/07
Date

Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge

FILED

MAY - 2 2007

CLERK OF COURTS
U.S. DISTRICT COURT, N.D.O.
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